

REMARKS

Status of claims:

Claims 1, 5-8, 15, 17-30, 32-34, 36-45 and 48-73 were pending. Claims 5-8 and 51-62 are withdrawn as drawn to non-elected inventions. Claims 2-4, 9-14, 16, 25-26, 31, 35, 44, 46-47, are canceled without waiver or prejudice. Applicant reserves the right to prosecute the canceled subject matter in a divisional or continuation application. Claims 1, 15, 17-24, 27-30, 32-34, 36-43, 45, 48-50 and 63-73 are under consideration.

Claim Amendments

Claims 24, 43, 45, 60, 61 and 62 have been amended to delete recitation of antibodies LL2, G250, CC49, L243 and J591.

Claim 32 is amended to indicate that there is a chemotherapeutic moiety, designated as "X", attached to the α -carboxylic acid moiety of the amino acid that is part of the linker of the claimed immunoconjugate. The amendment is supported in the published specification (Publ. No. 20040185053) at least at Paragraphs 0033, 0047, 0064 and 0074. (Although for convenience, recitation is made to the published specification, Applicant notes that the same material was present in the application as filed.) The designation "X" is used simply to indicate that there is an additional (chemotherapeutic) moiety attached to the carbonyl carbon of the amino acid moiety of the linker.

Applicant submits that no new matter is added by the amendment.

Summary of Examiner's Interview

A telephonic interview was held on April 27, 2009 between examiner Fetterolf and applicant's representative Richard Nakashima. All pending claims were discussed. The examiner indicated that the amended claims were novel and non-obvious over all the prior art of record. No exhibits were shown and no demonstrations were conducted. The examiner indicated claim 32 should be amended to indicate the presence of a chemotherapeutic moiety attached to the carbonyl carbon of the amino acid moiety of the linker. The examiner stated that the deposit

requirement should be addressed. An agreement was reached that Applicant would submit a supplemental amended response to address claim 32 and the deposit requirement issue. Applicant thanks the examiner for the courtesy of a telephonic interview.

Rejection of Claims Under 35 U.S.C. 112, 1st Paragraph

The examiner indicated that the issues with respect to the availability of antibodies LL2, G250, CC49, L243 and J591, addressed in previous responses, needed to be finalized or else the rejection would be maintained. In response, all recitation of antibodies LL2, G250, CC49, L243 and J591 has been removed from the pending claims. Applicant respectfully submits that the amended claims satisfy the requirements of 35 U.S.C. 112, 1st paragraph.

Rejection of Claims Under 35 U.S.C. 112, 2nd Paragraph

The examiner indicated that the structure shown in claim 32 appeared to be missing a component at the carboxyl end of the amino acid moiety and was therefore confusing. In response, the structure has been revised to include an "X" group attached to the α -carboxylic acid moiety of the amino acid, which X is indicated as a chemotherapeutic moiety. Applicant respectfully submits that the amended claims satisfy the requirements of 35 U.S.C. 112, 2nd paragraph.

Conclusion

In conclusion, Applicant respectfully submits that the pending claims as amended are all in condition for allowance and an early decision to that effect is requested.

Respectfully submitted,

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